

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2122.04
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: May 3, 2004
DATE OF REPORT: May 28, 2004
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: September 9, 2004

COMPLAINT ISSUES:

Whether the MSD of Warren Township violated:

511 IAC 7-25-5(c) by failing, within ten business days of the parent's request for an independent educational evaluation (IEE), to either notify the parent in writing that the independent evaluation would be at public expense or initiate a due process hearing;

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide the requisite number of hours of homebound instruction;

511 IAC 7-27-2(a) by failing to schedule the case conference committee (CCC) meeting at a mutually agreed upon date, time, and place;

511 IAC 7-27-2(c) and (d) by failing to provide the parent with adequate notice of the CCC meeting convened on October 3, 2003; and

511 IAC 7-27-3(a) by conducting a CCC meeting on October 3, 2003, without the parent in attendance and without making other arrangements to ensure the parent's participation in the CCC meeting.

FINDINGS OF FACT:

1. The Student is eleven years old and attends the local elementary school. The Student is eligible for special education as a student with an emotional disability.
2. According to the Complainant, he requested an independent evaluation at the CCC meeting on March 8, 2004. No written request was presented to the School. The Director stated that the School could provide an appropriate and comprehensive evaluation of the Student. The Student had previously been evaluated in October 2001. The Complainant gave signed consent for an evaluation of the Student and for release of information, and the CCC agreed to conduct an additional evaluation. A school psychologist evaluated the Student on May 3, 2004.
3. The Complainant stated that the requisite number of hours of homebound instruction was not provided to the Student, and that the School has not provided a means to make up hours of instruction from the Student's release date from jail in October 2003 through early February 2004. The March 8, 2004, CCC Report and IEP state that five hours of instruction are required per week. Homebound Instruction Record Forms show 95.5 hours of service from October 25, 2003, through April 23, 2004. Payroll

Claim Forms, signed by the Complainant, verify teachers' instructional time. The homebound instruction log shows 140 hours of homebound instruction due to the Student for October 25, 2003, through May 27, 2004.

4. On September 30, 2003, the principal of the School called the Complainant to set up a CCC meeting for October 3, which was mutually agreed upon by the principal and the Complainant. Written notice of the meeting was not sent in the mail, as the notice missed the morning mail pickup on October 1. The Complainant missed the October 3 meeting. The principal then called the Complainant and reset a meeting time for October 6. A separate written notice was not sent for the October 6 meeting.
5. The Complainant stated that he did not know that the meeting scheduled for October 3, 2003, was going to be for a manifestation determination, and that he learned the purpose on October 6, when he met with the reconvened CCC. The School has not presented documentation to show that the purpose was communicated and explained in advance. No written notice documenting the purpose of the meeting was received by the Complainant.
6. The Complainant forgot about the CCC meeting on October 3, 2003, and failed to attend. No advance notification was given concerning his absence. The School reconvened the CCC on October 6.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the independent evaluation was discussed at the CCC meeting, but the CCC agreed to conduct an additional evaluation. Therefore, no violation of 511 IAC 7-25-5(c) has been found.
2. Finding of Fact #3 indicates that the School still has many hours of homebound instruction to make up in order to fulfill the requisite number of hours for the school year. Therefore, a violation of 511 IAC 7-27-7(a) has been found.
3. Finding of Fact #4 indicates that the date, time, and place for the CCC meeting on October 3, 2003, was mutually agreed upon by the principal of the School and the Complainant. Therefore, no violation of 511 IAC 7-27-2(a) has been found.
4. Finding of Fact #5 indicates that the Complainant never received written notification to communicate the purpose of the October 3, 2003, CCC meeting in advance. Therefore, violations of 511 IAC 7-27-2(c) and (d) have been found.
5. Finding of Fact #6 indicates that the Complainant failed to attend the October 3, 2003, CCC meeting, but the CCC reconvened on October 6 with the Complainant in attendance. Therefore, no violation of 511 IAC 7-27-3(a) has been found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

MSD of Warren Township shall:

1. reconvene the CCC and develop a revised plan, in consultation with the Complainant, to make up the remaining hours of homebound instruction due to the Student for the 2003-2004 school year. This has

been calculated as 44.5 hours to be made up after the instruction that has already been provided through April 23, 2004.

- **Send a copy of the plan to the Division by July 1, 2004.**
 - **Send Homebound Instruction Record Forms, a homebound instruction log, and Payroll Claim Forms signed by the Complainant, for the remaining 44.5 hours, to the Division by September 10, 2004.**
2. send a written memorandum to appropriate personnel about the steps that must be taken to give adequate notice to parents of CCC meetings, per 511 IAC 7-27-2(d)(1-7). The memorandum should include steps for discussing and explaining the purpose of each meeting, especially when student discipline or a possible change of placement is involved.
- **Send a copy of the memorandum, with a list of individuals receiving it, to the Division by July 1, 2004.**